

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

John Frederic Garmon,

No. C 04-3772 WDB

Plaintiff,

**ORDER RE PLAINTIFF'S STATUS  
AS A "PUBLIC OFFICIAL"**

v.

Peralta Community College District,  
et al.,

Defendant(s).

At the April 3, 2006, hearing in this matter, the Court notified the parties that it was this Court's tentative ruling that Mr. Garmon constitutes a "public official" for purposes of his claim for defamation. The Court explicitly described the factual basis for this ruling. The Court also instructed plaintiff's counsel that, if plaintiff wanted to challenge this ruling, plaintiff would have until Thursday, April 6, at 4:00 p.m. to file a motion along with supporting evidence requesting a ruling that Mr. Garmon constitutes a "private individual" for purposes of his defamation claim.

Following the hearing, this Court issued a written order that states,

**By Thursday, April 6, 2006, at 4:00 p.m., . . .**

(1) Plaintiff must file his motion, if any, for a ruling that Mr. Garmon is not a "public official" as that phrase is used in connection with plaintiff's defamation claim.

1 See, Order re Defendants' Motion to Dismiss and Motion to Strike, filed April 4,  
2 2006.

3 As of April 7, 2006, at noon, plaintiff had not filed a motion seeking to change  
4 the Court's tentative ruling on this matter or submitted any evidence from which the  
5 Court might reconsider its ruling.

6 Therefore, the Court PROHIBITS plaintiff from attempting to persuade this  
7 Court or the trier of fact that Mr. Garmon is a private individual for purposes of his  
8 defamation claim. Furthermore, the Court DEEMS Mr. Garmon a "public official."  
9 The jury instructions relating to plaintiff's defamation claim will be those appropriate  
10 for a claim by a public official and will require plaintiff to prove by clear and  
11 convincing evidence that defendants knew the allegedly defamatory statements were  
12 false or had serious doubts about the truth of the statements.

13 IT IS SO ORDERED.

14  
15 Dated: April 7, 2006

/s/ Wayne D. Brazil  
WAYNE D. BRAZIL  
United States Magistrate Judge

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18 Parties, WDB  
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